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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/659,132	09/11/2003	William E. Launius JR.	WEL003	3056

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EXAMINER

REIS, TRAVIS M

ART UNIT	PAPER NUMBER
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2859

DATE MAILED: 07/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/659,132	Applicant(s) LAUNIUS, WILLIAM E.	
	Examiner Travis M Reis	Art Unit 2859	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
 4a) Of the above claim(s) 14 and 15 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of: _____
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-13, drawn to a hole alignment gauge for model cars, classified in class 33, subclass 562.
 - II. Claims 14 & 15, drawn to a method of aligning axle holes in model cars, classified in class 33, subclass 645.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions I and II are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case the product may be used in drilling holes in other devices than model cars; i.e. glass lenses, or construction materials.

3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification and divergent subject matter, restriction for examination purposes as indicated is proper.

4. During a telephone conversation with Mr. McCloskey on 7/19/04, a provisional election was made without traverse to prosecute the invention of Group I, claims 1-13. Affirmation of this election must be made by applicant in replying to this Office action. Claims 14 & 15 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Claim Objections

5. Claims 4 & 7 are objected to because of the following informalities:

Claim 4 recites in the limitation "said side" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 7 recites the limitation "said body" in line 6. There is insufficient antecedent basis for this limitation in the claim.

Appropriate correction is required.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

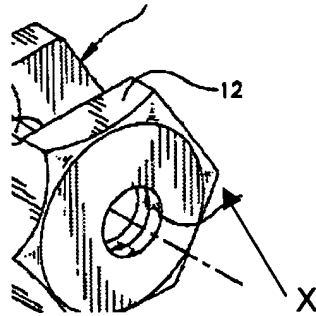
(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1, 2, & 4-6 are rejected under 35 U.S.C. 103(a) as being anticipated by McIntosh (U.S. Patent 5733077) in view of the prior art detailed in pages 2 & 3 in the specification (hereafter Prior Art).

McIntosh discloses a hole alignment gauge, preferably be made of a metal (col. 4 line 32), guiding a drill bit into holes comprising a body (12c, shown best in the cross section of Figure 8) having a generally rectangular shape (Figure 5), two mutually parallel ends parallel to the lateral axis of said body, and two mutually parallel sides parallel to the longitudinal axis of said body, a pair of projections (12a, 12b) having generally rectangular shape extending coplanar with each of said ends perpendicular to the longitudinal axis of said body, each projection having a length being less than half that of said body (where length is considered the horizontal direction in Figure 8), said projections form a U shape and a means (14) to align; and a passage bounded by said projections having a generally rectangular shape whereby a drill bit enters said aligning means (Figure 8) and reams a hole (28) in an object (20) (Figure 9); said projections including said aligning means having two holes (14c, 18)

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matching and generally centered (Figure 4) in each of said projections and parallel to the longitudinal axis of said body, and said holes are located away from the center of said body (12c) (Figure 5); said projections further including have markings (X, see below)



located upon said projections at opposite sides of said body, parallel to the longitudinal axis of said body and to said aligning means (Figure 5), said markings are visible to position said object with said aligning means (Figure 7); said guide allowing accurate drilling to be achieved without damaging the object (Abstract).

MacIntosh does not disclose the hole alignment gauge is for model cars guiding a drill bit into axle holes, whereby a model car fits snugly within said passage, a drill bit enters said aligning means in each projection and said model car, and said drill bit reams an axle hole in said model car.

The Prior Art discloses a hole alignment gauge (i.e. by hand or clamp, and eye) for model cars (pg 3 lines 31-33) guiding a drill bit into axle holes (pg 3 lines 33-34) whereby a model car fits snugly in said clamp, a drill bit enters said model car, and said drill bit reams an axle hole in said model car (pg 3, lines 33-34). Therefore, it would have been obvious to one with ordinary skill in the art at the time of the invention was made to size and shape said guide disclosed by McIntosh to fit and work on the model cars disclosed by the Prior Art since accurate drilling of the axle holes can be achieved without damaging the model car.

MacIntosh does not disclose explicitly that said metal be aluminum. However, the particular type of material used to make the gauge, absent any criticality, is only considered

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to be the use of a " preferred " or " optimum " material out of a plurality of well known materials that a person having ordinary skill in the art at the time the invention was made would have find obvious to provide using routine experimentation based, among other things, on the intended use of Applicant's apparatus, i.e. for a long wear life and durability, suitability for the intended use of Applicant's apparatus, and since the courts have stated that a selection of a material on the basis of suitability for intended use of an apparatus would be entirely obvious. See In re Leshin, 125 USPQ 416 (CCPA 1960). Therefore, it would have been obvious to one with ordinary skill in the art at the time of the invention was made to make the gauge disclosed by MacIntosh out of aluminum since aluminum is a durable metal with a long wear life.

8. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over MacIntosh & the Prior Art as applied to claims 1, 2, 4-6 above, and further in view of Klapperich (U.S. Patent 5407306).

MacIntosh & the Prior Art do not disclose said markings comprise grooves located upon said projections at opposite sides of said body, parallel to the longitudinal axis of said body and to said aligning means, said grooves are visible to position said axle hole with said aligning means.

Klapperich discloses a jig for boring dowel holes in true alignment with each other using guide slots (11) that correspond to drill holes (9) to form a common guide in conjunction with guide strips (12,13). Therefore, it would have been obvious to one with ordinary skill in the art at the time of the invention was made to add an appropriately sized guide slot disclosed by Klapperich to the marking disclosed by McIntosh and the Prior Art in order to see more of the workpiece alignment, improving the accuracy.

9. Claims 7-9 & 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over

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McIntosh & the Prior Art as applied to claims 1, 2, & 4-6 above, and further in view of Linblad (U.S. Patent 4421442).

McIntosh & the Prior Art disclose all of the instant claimed invention as stated above in the rejection of claims 1, 2, & 4-6, but do not disclose threaded rods with wingnuts and heads, said threaded rods passing through holes in said jaws parallel to the longitudinal axis of said gauge.

Linblad discloses a doweling jig comprising two jaws (16, 20) each of said jaws connecting by means of threaded rods (40, 54) with wingnuts (48, 56) and heads, wherein in a broad sense, the ends of the threaded rods are heads, said threaded rods pass through holes (42) in said jaws parallel to the longitudinal axis of said gauge, in order to be expandable accommodate workpieces (64, 66) of various sizes (col. 2 lines13-18). Therefore, it would have been obvious to one with ordinary skill in the art at the time of the invention was made to split the body disclosed by McIntosh & the Prior Art as taught by Linblad and add the holes and threaded rods with wingnuts and heads disclosed by Linblad to the guide disclosed by McIntosh & the Prior Art in order to expandable accommodate model cars of various sizes.

10. Claims 10, 11, & 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over MacIntosh, the Prior Art, & Linblad as applied to claims 7-9 & 12 above, and further in view of Klapperich (U.S. Patent 5407306)..

MacIntosh, the Prior Art, & Linblad do not disclose said markings comprise grooves located upon said projections at opposite sides of said body, parallel to the longitudinal axis of said body and to said aligning means, said grooves are visible to position said axle hole with said aligning means.

Klapperich discloses a jig for boring dowel holes in true alignment with each other

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using guide slots (11) that correspond to drill holes (9) to form a common guide in conjunction with guide strips (12,13). Therefore, it would have been obvious to one with ordinary skill in the art at the time of the invention was made to add an appropriately sized guide slot disclosed by Klapperich to the marking disclosed by McIntosh and the Prior Art in order to see more of the workpiece alignment, improving the accuracy.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Ash discloses a templet (U.S. Patent 1066695). Tornebohm discloses an adjustable gauge block (U.S. Patent 2636279). Woodward discloses a gage holder and scale means (U.S. Patent 2821022). Wolff discloses a doweling boring gauge for two workpieces to be dowelled together on their front flat sides (U.S. Patent 3914871). Friederichs et al. discloses a drill bit locating tool (U.S. Patent 4035099). Voneky et al. discloses a stepped end-gauge block apparatus (U.S. Patent 4445276). Kopp discloses an alignment gauge for scriber tool (U.S. Patent 4590677). Diamontis discloses a stud spacer (U.S. Patent 4625415). Groh discloses a jig for drilling dowel pin holes (U.S. Patent 4752162). Huynh discloses vehicle wheel alignment tools (U.S. Patent 511586).

12. Inquiries concerning this, or earlier communications, from the examiner should be directed to Travis M Reis (571) 272-2249; 8--5 M--F. If unreachable, contact the examiner's supervisor, Diego Gutierrez (571) 272-2245. The fax for the organization where this application or proceeding is assigned is (703) 872-9306 for all communications.

Travis M Reis
Examiner
Art Unit 2859



Diego Gutierrez
Supervisory Patent Examiner
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tmr
July 23, 2004